



PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor	:	Michail Petropoulos et al.
Serial No.	:	09/819,180
Filed	:	3/27/2001
Art Unit	:	2161
Examiner	:	Nguyen, Cindy
Title	:	RECONFIGURABLE QUERY GENERATION
Attorney Docket No.	:	ENOS0001

Commissioner of Patents
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COMMENT OF STATEMENT OF REASONS FOR ALLOWANCE

These comments are submitted in response to the examiner's statement of reasons for allowance (pages 2-3 of the Notice of Allowability).

The examiner paraphrases certain claimed limitations, and states that the prior art of record and that encountered while searching for the claimed invention fails to anticipate and/or suggest these features as paraphrased. Applicant

concur with the examiner's acknowledgment that the features of the claims are absent from the prior art. The prior art is, indeed, lacking in numerous respects. However, to the extent that the examiner's statement might be improperly construed to suggest that the recited features provide a statement as to Applicant's invention, Applicant objects to the examiner's statement. Simply put, the application is allowable because it meets the conditions for allowance set forth by the applicable Patent Laws, Patent Office Rules, and case law.

Applicant further objects to the examiner's statement because the Patent Rules only permit the examiner to make a statement as to reasons for allowance when "the examiner believes that the record of the prosecution as a whole does not make clear his or her reasons for allowing a claim or claims." 37 CFR 104(e). The record of the prosecution as a whole is straightforward, uncomplicated, and abundantly clear as to the reasons for allowing the claims. Furthermore, Applicant has addressed the claims' patentability in various requests for reconsideration, appeal brief, etc. The reason for allowing the claims is simply that the claimed invention as a whole is patentably distinguished from the art of record. No additional statements are necessary.

Thus, the Examiner must state why "the prosecution as a whole does not make clear his ... reasons for allowing ... [the] claims." To do so, the Examiner should reopen prosecution, state such reasons in writing, and provide Applicant with an opportunity to address such reasons as part of the official record of this application. Absent such strict compliance with the patent law, the Examiner's statement cannot be properly understood and is taken by the Applicant to have no legal effect whatsoever. The burden is placed on the Examiner to comply with the patent law should she disagree. In any event, Applicant's claims define the invention and are only subject to interpretation by a Judge pursuant to *Markman v. Westview Instr., Inc.*, 52 F.3d 967 (Fed. Cir. 1995), *aff'd* 517 U.S. 370 (1996). The Examiner's statements are given no weight for this purpose.

The Examiner's statements are also improper because they focus on particular claim features. No single claim feature should be highlighted to the exclusion of other claim features. For example, Congress specifically mandated

that the obviousness inquiry must consider whether the claimed invention as a whole would have been obvious. 35 USC 103. MPEP 2141.02. As another example, a claim is anticipated under 35 USC 102 only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The identical invention must be shown in as complete detail as is contained in the claim. MPEP 2131. Therefore, the Examiner's statements are improper because they focus on particular claim features rather than the invention as a whole. The subject invention is allowable because the invention as a whole is patentably distinguished from the art of record.

Respectfully Submitted,



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Certificate of Transmission under 37 CFR 1.8

Application Serial No. 09/819,180

Attorney Docket No. ENOS0001

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Attached to this cover-sheet please find the following documents:

- Certificate of Transmittal (1 page);
- Issue Fee Authorization (1 page in duplicate);
- Part B – Issue Fee Transmittal (1 page in duplicate); and
- Comment of Statement of Reasons for Allowance (3 pages)

This collection of information is required by 37 CFR 1.8. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22313-1450.

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